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Viewing cable 05SANJOSE2601, MEETING WITH COSTA RICAN MINISTER OF ECONOMY

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- The middle box contains the header information that is associated with the cable. It includes information about the receiver(s) as well as a general subject.
- The bottom box presents the body of the cable. The opening can contain a more specific subject, references to other cables ([browse by origin](#) to find them) or additional comment. This is followed by the main contents of the cable: a summary, a collection of specific topics and a comment section.

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Reference ID	Created	Released	Classification	Origin
05SANJOSE2601	2005-11-07 23:10	2011-08-30 01:44	CONFIDENTIAL	Embassy San Jose

Appears in these articles:

<http://www.nacion.com/2011-03-03/Investigacion/NotasDestacadas/Investigacion2697430.aspx>
<http://www.nacion.com/2011-03-03/Investigacion/NotaPrincipal/Investigacion2697496.aspx>
<http://www.nacion.com/2011-03-03/Investigacion/NotasSecundarias/Investigacion2697489.aspx>
<http://www.nacion.com/2011-03-03/Investigacion/NotasSecundarias/Investigacion2697532.aspx>
<http://www.nacion.com/2011-03-03/Investigacion/NotasSecundarias/Investigacion2697535.aspx>
<http://www.nacion.com/2011-03-03/Investigacion/NotasSecundarias/Investigacion2701964.aspx>
<http://www.nacion.com/2011-03-03/Investigacion/Relacionados/Investigacion2701965.aspx>

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SECTION 01 OF 03 SAN JOSE 002601

SIPDIS

WHA/CEN
EB FOR WCRAFT, BLAMPON
EB/CIP FOR WAYALA
WHA FOR WMIELE
WHA/EPSC FOR KURS, LGUMBINER
H FOR JHAGAN
STATE PASS TO USTR FOR RVARGO, NMOORJANI, AMALITO

E.O. 12958: DECL: 11/04/2015
TAGS: [ETRD](#) [ECPS](#) [ECON](#) [PREL](#) [PGOV](#) [SOCI](#) [CS](#)
SUBJECT: MEETING WITH COSTA RICAN MINISTER OF ECONOMY

REF: SAN JOSE 02460

Classified By: Charge Russell Frisbie for Reasons 1.4 (b) and (d)

¶1. (C) Summary. On October 26, 2005, Charge met with Minister of Economy, Industry, and Commerce Gilberto Barrantes. Minister Barrantes commented on the status of the United States-Central American-Dominican Republic Free Trade Agreement (CAFTA-DR) and related legislation including the proposed law to strengthen the Costa Rican Institute of Electricity (ICE). Barrantes stated that the bills that will implement the changes needed to comply with CAFTA-DR requirements in the areas of telecommunications, insurance, and protection of intellectual property rights would be sent to the Legislative Assembly sometime between now and January **¶**2006. The conversation with Barrantes supports post,s view that it is unlikely the Legislative Assembly will be able to complete the first of two votes on CAFTA-DR prior to the upcoming Presidential and Assembly elections on February 5, 2006, and perhaps not even by May 8, 2006 when the new President and entire Legislative Assembly members (deputies) will take office. Full approval and implementation of

CAFTA-DR including all necessary changes needed to comply with the agreement will likely be left to the next Administration. End Summary.

STATUS OF REVIEW OF CAFTA-DR

12. (U) During the October 26, 2005 meeting with the Charge, Barrantes who also heads President Pacheco's Economic Council said that Costa Rica is moving forward on CAFTA-DR and the proof was President Pacheco's sending the trade agreement to the Assembly on October, 21, 2005 to start the relatively long ratification process. Barrantes stated that Rolando Lacle, a deputy from the ruling Social Christian Unity Party (PUSC) and chair of the Assembly's International Relations Committee that has the responsibility for reviewing the agreement said that he will hold committee sessions four or five times a week to discuss CAFTA-DR. (Note: As required by law, the legislative project requesting approval of CAFTA-DR was formally introduced into the Assembly. The Assembly in principle had five days from October 21 to discuss and refer the agreement to the International Relations Committee. However, formal hearings cannot begin until the entire agreement is published in the Costa Rican Official Gazette, which could be several more weeks. Further restricting the window of opportunity, the Assembly likely will not be in session from approximately December 15 through the week after the elections, approximately February 13, 2006. End Note.)

13. (U) Many Costa Rican political experts believe the International Relations Committee will require at least three months to (1) review the legislation including the agreement and associated reports which total more than 3000 pages, (2) hold discussions with various groups in favor of and against CAFTA-DR, and (3) send it to the Assembly floor with recommendations and for a first vote. If passed in the first vote, the constitutional court will review the agreement and the legislative procedure used to approve it and offer its findings. This will take at least one month. (Note: One of the issues the Constitutional Court will review is the number of votes required to pass CAFTA-DR. Although most experts believe only a simple majority is required, some experts believe that a two-thirds majority is necessary to pass CAFTA-DR. End Note.) CAFTA-DR will then be sent back to the Assembly where, if there were no significant findings by the Constitutional Court, there would be a second vote. In the case that the Constitutional Court were to have significant findings, the Assembly would then have to address the Court's comments accordingly. Even after a successful second vote, there may still be up to a month for (1) the President to sign the approving legislation and (2) to publish the approval in the Official Gazette before the agreement is considered ratified in Costa Rica. At best, the process will probably take at least six months.

CAFTA-DR-RELATED LEGISLATION

14. (C) Barrantes also said that in November, he, Vice President Lineth Saborio, Gerardo Gonzalez a PUSC deputy and President of the Legislative Assembly, and Liliana Salas, chief of the PUSC party faction in the Assembly, will meet to discuss the legislative priorities for the Assembly's extraordinary session that lasts from December 1 through April 30. They will then send the priority list to President Pacheco for his review. (Note: During the extraordinary session, President Pacheco sets the legislative priorities, as opposed to the ordinary session in which the President of the Assembly does so. End Note.) Barrantes said that he believes the list will include the following legislative initiatives (although he failed to give them any specific relative priority): (1) CAFTA-DR, (2) a law to implement the CAFTA-DR requirements regarding the telecommunications market, (3) a law to implement the CAFTA-DR requirements regarding the insurance market, (4) legislation approving loans that would fund CAFTA-DR's corollary complementary agenda, (5) legislation forming a Costa Rican development bank to assist development of businesses under CAFTA-DR, and (6) legislation that would ensure compliance with the intellectual property rights provisions of CAFTA-DR. (Note: The only legislation that has been submitted to date are CAFTA-DR and the complementary agenda funding. End Note.)

15. (C) One notable absence on Barrantes's list was that of the government's fiscal reform bill. When asked about the status of this tax bill, Barrantes said that he was not sure what would happen - that a lot depended on the strategy to be adopted by Gerardo Gonzalez, the President of the Assembly.

16. (C) Barrantes also talked about the proposed law to strengthen ICE that was sent to the Legislative Assembly on October 18, 2005, three days prior to sending CAFTA-DR. He stated that the President chose to proceed this way and to

insist on the Assembly passing the law to strengthen ICE prior to passing CAFTA-DR to win good will from members of some of the many labor unions that have voiced opposition to CAFTA-DR. The bill is supposed to give ICE the financial and administrative autonomy necessary to compete in a gradually opened telecommunication industry as required by CAFTA-DR. Barrantes acknowledged that from a CAFTA-DR compliance point of view, this proposed law was problematic since it exempts ICE from having to pay any taxes and gives concessions for use of most of the telecommunications spectrum. (Note: Annex 13 to Chapter 13 of CAFTA-DR basically requires a strong regulator of the telecommunications market that ensures equal treatment and access for all competitors be they publicly- or privately-owned. End Note.)

17. (C) Barrantes said that the issues noted above would be fixed in the Telecommunications Act that is currently under review by the Administration and ICE, and that may be submitted to the Assembly in as early as a few weeks or as late as January 2006. Barrantes said that perhaps the GOCR would wait until December or January to lessen the likelihood that anti-CAFTA forces could marshal university and high school student support for protests.

18. (C) Barrantes said that a significant issue under discussion regarding the Telecommunications Act was how to regulate the telecommunications spectrum. He referred to a World Bank study that is not publicly available that, he stated, confirms there is enough available telecommunications spectrum to allow sufficient competition, i.e., it would not be necessary to take any spectrum away that ICE currently has the rights to use. At the same time, he also said that the Telecommunications Act would "clean up" the spectrum. Barrantes said that President Pacheco personally intervened over the objections of some ministers and to make the decision not to address spectrum issues in the proposed law to strengthen ICE. Barrantes said Pacheco wants to avoid confrontation with the labor unions at this time by not appearing to take anything away from ICE in that bill.

19. (C) Barrantes stated that the proposed bill to strengthen ICE would be sent for review by a special deputies-only committee which would consist of three PUSC deputies, three deputies from the opposition National Liberation Party (PLN) and probably one to three deputies from other parties. He said most of the deputies that will be on this committee will have served on the now-defunct special mixed committee to review ICE that reviewed the previously proposed law to strengthen ICE.

10. (C) Barrantes also said that a new and independent regulatory body would be formed and would be named the Superintendent of Telecommunications. He admitted that the Regulatory Authority of Public Services (ARASEP), which had been rumored to be the responsible regulatory agency, is not qualified to do the job. Barrantes recognized the difficult task of building such an organization from the ground up including finding properly trained and experienced personnel and generating regulations and defining procedures for an open telecommunications market. He did say that the Administration was working with several international consultants on these issues.

COMMENT

11. (C) Barrantes's comments served to underline the significant barriers to rapid movement toward CAFTA-DR ratification that remain, and which complicate passage in 2006. President Pacheco's insistence that the Assembly pass the newly introduced law to strengthen ICE which contains articles, which go against CAFTA-DR commitments, further muddies the waters. Moreover, Barrantes's comments about the possibility of not "freeing up" telecommunications frequencies highlights a key potential CAFTA-DR compliance issue. In short, for the GOCR negotiating the agreement may well have been the easy part, ratifying CAFTA-DR more difficult, and passing the necessary legislation to comply with its commitments could well constitute the biggest challenge.
LANGDALE